

SECOND REGULAR SESSION

SENATE BILL NO. 1039

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL.

Read 1st time January 12, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

2993S.04I

AN ACT

To amend chapter 334, RSMo, by adding thereto twelve new sections relating to the regulation and licensing of the practice of naturopathic medicine, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 334, RSMo, is amended by adding thereto twelve new sections, to be known as sections 334.1050, 334.1053, 334.1056, 334.1059, 334.1062, 334.1065, 334.1068, 334.1071, 334.1074, 334.1077, 334.1080, and 334.1083, to read as follows:

334.1050. 1. As used in sections 334.1050 to 334.1083 the following terms mean:

(1) "Approved naturopathic college", a four academic year in-residence, doctoral-level naturopathic medical education program that is accredited by the Council on Naturopathic Medical Education, its successor or equivalent, and which is located at an institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education;

(2) "Board", the state board of registration for the healing arts;

(3) "Department", the department of economic development;

(4) "Diagnose", to examine in any manner another person, parts of a person's body, or substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body to determine the source, kind, or extent of a disease or other physical condition;

(5) "Natural medicine", includes:

(a) Food, food extracts, and dietary supplements as defined by the Federal Food, Drug and Cosmetic Act (21 U.S.C. Section 301 et seq.), as amended;

(b) Plant, animal, mineral, and microbial substances that are not designated as prescription drugs or controlled substances; and

(c) Homeopathic remedies and substances prepared according to the

Homeopathic Pharmacopeia of the United States;

(6) "Naturopathic physician" or "naturopath", a person licensed to practice naturopathic medicine pursuant to sections 334.1050 to 334.1083;

(7) "Naturopathic medicine" or "naturopathy", a system of primary health care for the prevention, diagnosis, and care of human health conditions, injuries, and diseases that uses education and natural substances and remedies to support and stimulate the individual's intrinsic self-processes;

(8) "Naturopathic physical medicine", the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic non-ionizing radiation, and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, exercise, and other electrical devices as approved by the board. The term does not include the practice of physical therapy, acupuncture, or chiropractic;

(9) "Topical preparations", topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials.

2. Any person who is not currently a licensed naturopathic doctor within the meaning of the law to practice naturopathic medicine in any of its departments shall not engage in the practice of naturopathic medicine except as provided by sections 334.1050 to 334.1083.

3. As used in the laws of this state, the terms "naturopath", "naturopathic physician", "practitioner of naturopathic medicine", "naturopathy", "N.M.D." (Doctor of Naturopathic Medicine), "N.D." (naturopathic doctor), or similar terms shall be construed to mean naturopathic physicians licensed pursuant to this chapter.

4. The term "naturopathic physician", and the designation "N.D." shall be used in any sign, letterhead, advertisement, solicitation, or other method of addressing the public.

334.1053. Candidates for licensure as naturopathic physicians shall furnish satisfactory evidence of their good moral character and their preliminary qualifications as follows:

- (1) File an application with the department;
- (2) Earned a degree of doctor of naturopathy from an approved naturopathic college;
- (3) Have experience as a naturopathic physician satisfactory to the board and in accordance with the board's regulations;
- (4) Pass the naturopathic physician's licensing exam (NPLEX), or its successor or equivalent examination, as determined by the board;
- (5) Be at least twenty-one years of age;
- (6) Be a United States citizen or an alien lawfully admitted for permanent

residence in the United States; and

(7) Pay all application and examination fees required by the board.

334.1056. 1. There is hereby established an "Advisory Commission for Naturopathic Medicine" for the purpose of advising the state board of registration for the healing arts on the licensing and supervising of all naturopathic physicians. The commission shall consist of six members, including one voting public member, to be appointed by the governor with the advice and consent of the senate. At least four members of the commission shall be licensed naturopaths. Each naturopath member of the commission shall be a citizen of the United States, actively engaged in the practice of naturopathy immediately preceding his or her appointment. One member shall be appointed from an appropriate healing profession, including medicine, as a person licensed pursuant to this chapter. No more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member shall receive compensation in an amount set by the commission not to exceed fifty dollars for each day devoted to the duties of the commission, and shall be entitled to reimbursement for the member's expenses necessarily incurred in the discharge of his or her official duties.

2. The commission's initial naturopathic physician members shall be professional members of the Missouri Association of Naturopathic Physicians:

(1) Be actively practicing naturopathic medicine; or

(2) Hold an active license to practice naturopathic medicine in another state where such license requires passage of a professional naturopathic medical licensing examination.

The naturopathic physician members appointed to the initial commission shall be licensed in accordance with sections 334.1050 to 334.1083 not later than one year after establishment of the licensing rules and regulations. If for any reason such a member cannot be licensed within such time period, a new member shall be appointed.

3. The initial appointments to the commission shall be one member for a term of one year, one member for a term of two years, one member for a term of three years, and two members for a term of four years.

4. The public member shall, at the time of his or her appointment, be a citizen of the United States, a resident of this state for a period of one year, and a registered voter. The public member shall not be a person who is or ever was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person, and a person who has or has ever had a material financial interest in providing for the professional services regulated by this chapter, or an

activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from a list submitted by the director of the department of economic development. The duties of the public member shall not include the determination of technical requirements for licensure or whether any person meets such technical requirements or of the technical competence or judgment of a licensee or candidate.

334.1059. 1. The state board of registration for the healing arts shall:

(1) Adopt rules that are necessary or proper for the administration of sections 334.1050 to 334.1083;

(2) Administer and enforce all provisions of sections 334.1050 to 334.1083 and all rules adopted by the board pursuant to the authority granted in sections 334.1050 to 334.1083;

(3) Set the amount of the fees which sections 334.1050 to 334.1083 authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 334.1050 to 334.1083;

(4) Deposit all funds received pursuant to sections 334.1050 to 334.1083 in the board of registration for the healing arts fund established in section 334.050, RSMo; and

(5) Adopt rules for conducting licensing examinations required by sections 334.1050 to 334.1083.

2. The board may:

(1) Adopt rules that prescribe continuing medical education for the renewal of licenses issued pursuant to sections 334.1050 to 334.1083;

(2) Employ permanent or temporary personnel it deems necessary to carry out the purposes of sections 334.1050 to 334.1083 and designate their duties.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 334.1050 to 334.1083 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

334.1062. 1. A person who holds a license pursuant to sections 334.1050 to

334.1083 shall display such document in a conspicuous place that is accessible to view by the public.

2. A person who practices, conducts affairs, or is employed at more than one location and who maintains a continuing activity as authorized by the license shall display a duplicate of such document issued by the board at each location.

334.1065. 1. All persons desiring to practice as a naturopathic physician in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file an application with the board at least thirty days before the date set for the examination upon applications furnished by the board.

2. The examination required for a license pursuant to sections 334.1050 to 334.1083 shall be the naturopathic physician's licensing examination (NPLEX), its successor examination or equivalent, as determined by the board.

3. Upon the applicant paying a fee equivalent to the required examination fee and furnishing the board with all locations of previous practice and licensure in chronological order, the board shall, pursuant to regulations prescribed by it, admit without examination qualified persons who meet the requirements of sections 334.1050 to 334.1083, and who hold certificates of licensure in any state or territory of the United States or the District of Columbia authorizing them to practice in the same manner and to the same extent as naturopathic physicians are authorized to practice pursuant to sections 334.1050 to 334.1083. Within the limits of this subsection, the board is authorized and empowered to negotiate reciprocal compacts with licensing boards of other states for admission of licensed practitioners from Missouri in other states.

334.1068. Sections 334.1050 to 334.1083 do not apply to the following persons:

(1) Any naturopathic physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed naturopathic physician;

(2) Any naturopathic physician who is licensed in another state or country and who is meeting a naturopathic physician licensed in this state, for purposes of consultation, provided such practice is limited to such consultation;

(3) Any naturopathic physician who is licensed in another state or country, who is visiting a naturopathic or other medical school or teaching hospital in this state to conduct naturopathic instruction for a period not to exceed six months, provided such practice is limited to such instruction and is under the supervision of a licensed naturopathic physician pursuant to sections 334.1050 to 334.1083;

(4) Any naturopathic student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a naturopathic school

which meets standards satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital;

(5) A person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature the sale of which is not otherwise prohibited under state or federal law;

(6) Any other person licensed in this state in any health care profession while the person is practicing within the scope of the license.

334.1071. 1. Notwithstanding the provisions of sections 334.1059 to 334.1062, a person may be licensed as a naturopathic physician without meeting the requirements of section 334.1059 if the applicant:

(1) Is a resident of this state;

(2) Is at least twenty-one years of age;

(3) Provides proof acceptable to the board, as established by rule of the board, that the person has been actively engaged in naturopathic health care and has held the person out to the public as qualified to practice naturopathy for at least eighteen of the last twenty years before August 28, 2004;

(4) Derives the majority of the person's income from the practice of naturopathic medicine; and

(5) Applies for a license pursuant to this section before July 1, 2006.

2. The board by rule may provide for limitations on the practice of a person licensed pursuant to subsection 1 of this section. The board may require a person licensed pursuant to this section to be identified as a person whose practice is limited.

3. A person licensed pursuant to this section may:

(1) Use the title naturopathic physician and any other title allowed pursuant to sections 334.1050 to 334.1083; and

(2) Practice naturopathy only within the scope of practice that reflects the limits of the person's training and experience.

334.1074. Any person who violates any provision of sections 334.1050 to 334.1083 is guilty of a class A misdemeanor.

334.1077. The board shall not renew any license unless the licensee provides satisfactory evidence that the licensee has complied with the board's minimum requirements for continuing education. All persons once licensed to practice naturopathic medicine in this state shall, on or before the license renewal date, furnish to the board satisfactory evidence of completion of the requisite number of hours of postsecondary study, which shall be twenty-four hours during each twelve months of the registration period immediately preceding the filing of the registration renewal application. The postgraduate study required shall be from

a board-approved continuing education program.

334.1080. 1. Every person licensed pursuant to the provisions of sections 334.1050 to 334.1083 shall renew his or her application on or before the registration renewal date. The application shall be made under oath on a form furnished by the board. The application shall include, but not be limited to, disclosure of the following:

(1) The applicant's full name, the applicant's office and residence address, and the date and number of his or her license;

(2) All final disciplinary actions taken against the applicant; and

(3) Information concerning the applicant's current physical and mental fitness to practice as a naturopathic physician.

2. A blank form for application for registration shall be mailed to each person licensed in this state at the person's last known office or residence address. The failure to receive it does not, however, relieve any person of the duty to register and pay the fee required by this chapter nor exempt him or her from the penalties provided by sections 334.1050 to 334.1083 for failure to register.

3. If a person licensed by the board does not renew such license by the license expiration date, such license shall be deemed void. If such person's license is deemed void, he or she may apply for a reinstatement of such license pursuant to the procedures established by the board.

334.1083. 1. Each applicant for license pursuant to sections 334.1050 to 334.1083 shall accompany the application for license with a license fee to be paid to the director of revenue. If the application is filed and the fee paid after the license renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule, the delinquent fee may be waived by the board. Whenever any new license is granted to any person pursuant to the provisions of sections 334.1050 to 334.1083, the board shall, upon application, issue to such licensee a license covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which sections 334.1050 to 334.1083 authorizes and requires by rules promulgated pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 334.1050 to 334.1083.

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